



EXPRESS MAIL NO. EV529826476US

TRANSMITTAL FORM

(To be used for all correspondence
after initial filing)

Application Number	09/664,459
Filing Date	September 18, 2000
First Named Inventor	Philip M. Denby
Art Unit	2154
Examiner Name	Nabil M. El Hady
Attorney Docket No.	480062.665

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement; Form PTO-1449 <input type="checkbox"/> Cited References <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts under 37 C.F.R. 1.52 or 1.53 <input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input checked="" type="checkbox"/> Drawing(s) <input type="checkbox"/> Request for Corrected Filing Receipt <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Declaration <input type="checkbox"/> Statement under 37 CFR 3.73(b) <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Return Receipt Postcard <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <u>Form PTOL-85 (+ copy):</u> <u>Application for Patent Term Adjustment: Copy of</u> <u>Determination of Patent Term Adjustment: Copy of Return</u> <u>Receipt Postcard</u>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Remarks 4 Replacement Sheets of Formal Drawings (Figs. 1-7)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Seed. Intellectual Property Law Group PLLC	Customer Number 00500
Signature		
Printed Name	Frank Abramonte	
Date	January 3, 2005	Reg. No. 38,066

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature		
Typed or printed name	Date:	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



EXPRESS MAIL NO. EV529826476US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Philip M. Denby et al.
Application No. : 09/664,459
Filed : September 18, 2000
For : AUTOMATED SOFTWARE UPGRADE UTILITY

Examiner : Nabil M. El Hady
Art Unit : 2154
Date of Notice Allowance : October 4, 2004
Docket No. : 480062.665
Date : January 3, 2005

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents:

Applicants hereby request reconsideration of the patent term noted in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) provided with the Notice of Allowance mailed October 4, 2004. A check including the \$200 fee for this application is enclosed.

Statement of the Facts:

The Determination of Patent Adjustment under 35 U.S.C. 154(b) indicates that the Patent Term Adjustment for this application to date is 754 days. Applicants submit that the correct patent term adjustment for this application should be 759 days.

- This application was filed on September 18, 2000.
- A Notice to File Missing Parts was mailed by the USPTO on November 9, 2000. Applicants mailed a Response to Notice to File Missing Parts which was received by the USPTO on March 1, 2001, as evidenced by the date-stamped return postcard for the Response to Notice to File Missing Parts, a copy of which is submitted herewith. Although Applicants' response was 20 days late, the U.S. Patent Office has deducted 25 days of Patent Term.
- The initial action by the USPTO was an Office Action mailed

November 26, 2003. Pursuant to 37 CFR 1.702(a), this initial action should have been issued by the USPTO within 14 months of the filing date of the application. Therefore, pursuant to 37 CFR 1.703(a)(1), the initial action was 738 days late.

▪ Applicants filed a Response to this Office Action on March 26, 2004, which was 29 days late.

▪ The subsequent action, a Notice of Allowance, was mailed by the U.S. Patent Office on October 4, 2004. Pursuant to 37 CFR 1.702(a)(2), this subsequent action should have been mailed by the USPTO within 4 months the date of Applicants' Response. Therefore, pursuant to 37 CFR 1.703(a)(2), the subsequent action was 70 days late.

In view of the foregoing, Applicants submit that the patent to be issued from the present application is entitled to a Patent Term Adjustment of seven hundred fifty-nine (759) days, calculated as follows:

<u>PTO Delay</u>	<u>Applicant Delay</u>	<u>Total PTA</u>
(738 days + 70 days)	- (20 days + 29 days)	= 759 days

Applicants respectfully request that such a Patent Term Adjustment be granted. Applicants note that this application is not subject to a terminal disclaimer.

The Director is authorized to charge any additional fees due by way of this Application, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Frank Abramonte
Registration No. 38,066

Enclosures:

Check including \$200.00 fee

Copy of Determination of Patent Term Adjustment under 35 U.S.C. 154(b) as provided with Notice of Allowance

Copy of Date-Stamped Returned Postcard for the Response to Notice to File Missing Parts

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031
525416_1.DOC



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,459	09/18/2000	Philip M. Denby	11041US1	4302

500 7590 10/04/2004

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
 701 FIFTH AVE
 SUITE 6300
 SEATTLE, WA 98104-7092



EXAMINER	
EL HADY, NABIL M	
ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 10/04/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 754 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 754 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



BEST AVAILABLE COPY

480062.665

FXA:SBR

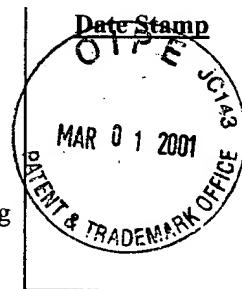
SENT: February 26, 2001
DUE: March 9, 2001

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

Kindly acknowledge receipt of the below-listed documents by placing
your receiving stamp hereon and mailing:

Check; Response to Notice to File Missing Parts (+copy); Petition for Extension of
Time (+2 copies); copy of Notice to File Missing Parts; Declaration; in re: Philip M.
Denby et al., USAN 09/664,459, filed 9/18/00, for AUTOMATED SOFTWARE
UPGRADE UTILITY.

L:\480062 - Intermec\665\Postcard-MP.doc



SEED INTELLECTUAL PROPERTY LAW GROUP PLLC